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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,684	11/19/2001	Corey M. Grove	DAM 557-01	5881
24211	7590	11/16/2004	EXAMINER	
US ARMY SOLDIER AND BIOLOGICAL CHEMICAL COMMAND OFFICE OF THE CHIEF COUNSEL/IP TEAM (BLDG E4435) 5183 BLACKHAWK ROAD APG, MD 21010-5424			MENDOZA, MICHAEL G	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/992,684	<b>Applicant(s)</b> GROVE ET AL.	
	<b>Examiner</b> Michael G. Mendoza	<b>Art Unit</b> 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,10-12 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,10-12 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 6 August 2004 have been fully considered but they are not persuasive. The Applicant argues that Gallet does not teach an adjustable head harness as a component of the face protection shell or mask. In Claim 1, section (v), the claim merely states that the head harness is attached at a surface of the shell or the face seal. Gallet clearly meets the limitation as shown in FIG. 9. In FIG. 9, the head harness is attached to the shell of the mask at 26. Gallet meets the structural limitations of claim 1.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 7, 10, 11, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet 4817596.

3. Gallet teaches a modular helmet-mask assembly which comprises: a helmet comprising an impact resistant material; a face protection assembly comprising: a face protection shell; a vision port; a flexible nose cup (see figure) comprising a breathe-through airflow assembly and a filter unit (col. 1, lines 10-13); a flexible face seal (col. 4, lines 33-37); an adjustable head harness (see figure); a transparent, impact resistant lens rotatably attached at front part of the helmet (col. 5, lines 14-22); a transparent,

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impact resistant lens fixed to the vision port; wherein the impact resistant lens comprises polycarbonate, polyurethane, or combination thereof (col. 5, lines 21-22); wherein the face seal and nosecup comprise an elastic material (col. 4, lines 33-37); and wherein the filter unit comprises a filter element comprising a material capable of filtering chemical vapors and biological aerosols (col. 1, lines 10-13). It should be noted that Gallet fails to specifically teach wherein the face protection shell comprises an impact resistant material. However it would have been obvious to one of ordinary skill in the art at the time the invention was made to use impact resistant material in situations where the mask could be damaged (firefighting/police raids) to prevent breakage.

4. As to claim 11, Gallet discloses the claimed invention except for the filter element comprises a carbon filter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a carbon filter since it was known in that carbon filters are effective for removing harmful gases.

5. Claims 2, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet as applied to claims 1, 2, and 17 above, and further in view of Lane 5555569.

6. Gallet teaches the modular helmet-mask assembly of claim 1. It should be noted that Gallet fails to teach a position adjustable pad attached at rear part of the helmet, or a tightening adjustment knob/lever.

Lane teaches an assembly with a common pad and knob for securing a helmet on a wear's head (see figures). Therefore, it would have been obvious to one of

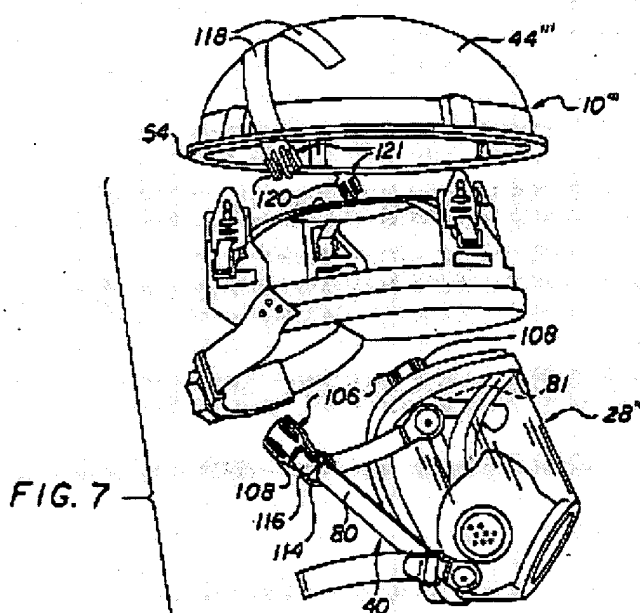
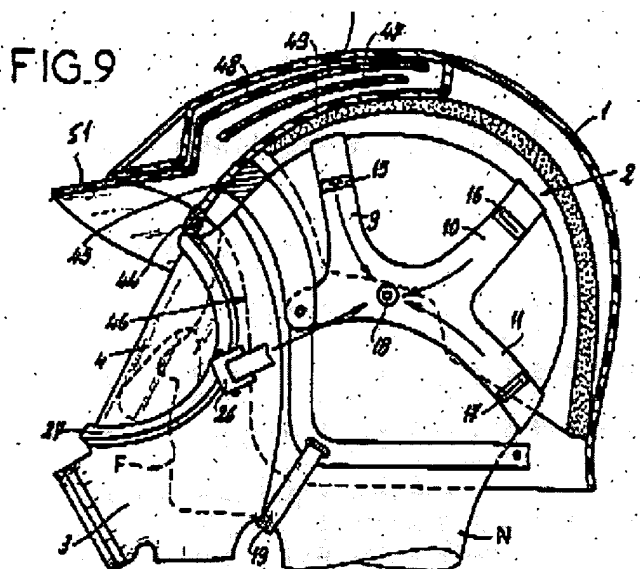
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ordinary skill in the art at the time the invention was made to include the pad and knob for allowing adjustment of the fit of the helmet when the helmet is donned (col. 4, lines 47-56).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet in view of Epperson et al. 6279172.

8. Gallet teaches the helmet-assembly of claim 1. It should be noted that Gallet fails to specifically teach the impact resistant shell material comprises graphite, fiberglass, or combinations thereof.

Epperson et al. teaches an assembly with common impact resistant material. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the graphite of Epperson et al. for its strong and lightweight properties (col. 3, lines 28-29).



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dawson can be reached on (571) 272-4694. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM

  
**GLENN K. DAWSON**  
**PRIMARY EXAMINER**